UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

JOHN LOFFREDO ET AL, individually and
as representatives of a class of similarly situated persons,

Plaintiffs,

v

Case No. 2:10-CV-14214-JCO-MKM
Hon. Julian A. Cook

CERBERUS CAPITAL MANAGEMENT, L.P.,
a limited partnership,
STATE STREET BANK AND TRUST COMPANY,
a Massachusetts trust company,
JOHN DOE and MARY ROE, individuals,

Defendants.

____/

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PLAINTIFFS' EX PARTE MOTION TO FILE A BRIEF IN OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS THE COMPLAINT IN EXCESS OF TWENTY PAGES PURSUANT TO E.D. MICH. LR 7.1(c)(3)(A)

Plaintiffs, John Loffredo et al ("Plaintiffs"), by and through their attorneys, Morganroth & Morganroth, PLLC and Sheldon Miller & Associates, P.C. hereby move for an order granting Plaintiffs leave to file a Brief in Opposition to Defendants, Cerberus Capital Management, L.P. ("Cerberus") and State Street Bank and Trust Company's ("State Street") (collectively, "Defendants") Motions to Dismiss the Complaint in excess of 20 pages, pursuant to E.D. Mich. LR 7.1(c)(3)(A) and state as follows:

1. Plaintiffs seek leave to file single consolidated Brief in Opposition to the Motions to Dismiss which have been separately filed by Defendants, Cerberus and State Street, of 33 pages.

2. Pursuant to stipulated order entered by this Court, Plaintiffs must file their Brief in Opposition to Defendants' Motions to Dismiss on or before January 31, 2011. **Docket No. 9.**

3. Cerberus has been granted leave to file a Brief in Support of its Motion to Dismiss of 28 pages. **Docket Nos. 10-11.**

4. In its 28 page brief, Cerberus raises multiple complex legal arguments, including that Plaintiffs' claims are preempted by ERISA, and that Plaintiff has failed to meet the pleading requirements of Rules 8 and 9 of the Federal Rules of Civil Procedure, among other arguments. **Docket No. 12.**

5. State Street has filed a separate 17 page Brief in Support of its Motion to Dismiss the Complaint, which incorporates many of the arguments made by Cerberus, and also raises new additional arguments regarding State Street. **Docket No. 13.**

6. Plaintiffs have diligently attempted to respond to Defendants' Motions to Dismiss the Complaint in the fewest number of pages as possible, however, it appears that an extra 13 pages of text are necessary in order to enable Plaintiffs to fully address the multiple complex legal arguments

which have been raised by Defendants in their separately filed Motions to Dismiss and corresponding Briefs in Support.

7. Plaintiffs believe that the extra 13 pages will assist the Court in its consideration of Defendants' Motions to Dismiss the Complaint.

8. Plaintiffs further believe that filing a single consolidated Brief in Opposition to Defendants' Motions to Dismiss (as opposed filing separate briefs in response to each motion) will further facilitate this Court's review of Defendants' pending Motions to Dismiss inasmuch as the need for redundant repetition and/or incorporation by reference will be eliminated.

9. A copy of Plaintiffs' proposed consolidated Brief in Opposition to Defendants' Motions to Dismiss (without exhibits) is attached hereto as **Exhibit 1.**

10. A proposed order granting Plaintiffs leave to file a single consolidated Brief in Opposition to Defendants Motions to Dismiss consisting of 33 pages is attached hereto as **Exhibit 2.**

WHEREFORE Plaintiffs' respectfully request that this Court GRANT the instant Motion, and enter an order granting Plaintiffs leave to file a single consolidated Brief in Opposition to Defendants Motions to Dismiss consisting of 33 pages.

[Signature page to Plaintiffs' Ex Parte Motion to File a Brief in Opposition to Defendants' Motions to Dismiss the Complaint in Excess of Twenty Pages Pursuant to E.D. Mich. L.R. 7.1(c)(3)(A)]

Respectfully submitted,

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Dated: January 31, 2011

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BRIEF IN SUPPORT OF PLAINTIFFS' EX PARTE MOTION TO FILE A BRIEF IN OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS THE COMPLAINT IN EXCESS OF TWENTY PAGES PURSUANT TO E.D. MICH. LR 7.1(c)(3)(A)

QUESTION PRESENTED

I. WHETHER PLAINTIFFS SHOULD BE GRANTED LEAVE TO FILE A SINGLE CONSOLIDATED BRIEF IN OPPOSITION TO DEFENDANTS' SEPARATELY FILED MOTIONS TO DISMISS THE COMPLAINT IN EXCESS OF THE TWENTY PAGE LIMIT SET FORTH BY LOCAL RULE 7.1(d)(3)(A).

TABLE OF MOST CONTROLLING AUTHORITY

1. E.D. Mich. L.R. 7.1(d)(3)(A).

ARGUMENT

Local Rule 7.1(d)(3)(A) provides that "[t]he text of a brief supporting a motion or response, including footnotes and signatures, may not exceed 20 pages. A person seeking to file a longer brief may apply ex parte in writing setting forth the reasons."

In support of Plaintiffs' Ex Parte Motion to File a Brief in Opposition to Defendants' Motions to Dismiss the Complaint in Excess of Twenty Pages Pursuant to Local Rule 7.1(c)(3)(A), Plaintiffs rely upon and incorporate herein by reference, the reasons and arguments set forth in the accompanying Motion.

CONCLUSION

For all of the foregoing reasons, Plaintiffs respectfully request that this Court GRANT the instant Motion, and enter an order granting Plaintiffs leave to file a single consolidated Brief in Opposition to Defendants Motions to Dismiss consisting of 33 pages. A proposed order granting the foregoing relief is attached hereto as **Exhibit 2.**

Respectfully submitted,

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Dated: January 31, 2011

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2011, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

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